

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

YVONNE BROWER

Plaintiff(s)

vs.

HAMILTON COUNTY BOARD
OF COMMISSIONERS, et al.

Defendant(s)

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Case Number: 1:04-cv-00803

Senior District Judge S. Arthur Spiegel

JUDGMENT IN A CIVIL CASE

Decision by Court: This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

. . . Having reviewed this matter, the Court finds Defendants' Motion for Judgment on the pleadings well taken. Plaintiff's prior complaints trigger the "two dismissal rule" of Fed. R. Civ. P. 41, and thus her voluntary dismissal of her second complaint operates as a final decision on the merits. The instant Complaint further constitutes a subsequent action between the same parties, includes only issues that could have or should have been raised in the prior action, and is grounded in facts sharing an identity with the facts of the prior actions. *Wilkins v. Jakeway*, 183 F.3d 528 (6th Cir.1999). The Court further finds that Plaintiff's proposed amendment to her Complaint is futile in the light of its conclusion that the Court lacks subject matter jurisdiction over this action under the doctrine of claim preclusion. *Foman*, 371 U.S. 178. Accordingly, the Court GRANTS Defendants' Motion for Judgment on the Pleadings (doc. 10), and DENIES Plaintiff's Motion for Leave to Amend Complaint (doc. 19). In the light of Plaintiff's Rule 41(a) dismissal of Defendants John Patzwald and Frank Forsthoefel (doc. 21), the Court DENIES AS MOOT these former Defendants' Motion for Judgment on the Pleadings (doc. 11). The Court DISMISSES this case from its docket.

1/18/06

James Bonini, Clerk

s/Kevin Moser
Deputy Clerk